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Error to Circuit Court, Fauquier County.

W. H. Boyenton was convicted of receiving a deposit as a private banker, knowing himself to be insolvent, in violation of Acts 1893-94, c. 210, and he brings error. Reversed.

*F. S. Collier*, of Hampton, and *Lett & Massie*, of Newport News, for plaintiff in error.

*The Attorney General*, for the Commonwealth.

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MITCHELL v. WILLIAMS.

Jan. 16, 1913.

[76 S. E. 949.]

**Boundaries (§ 40\*)—Trial of Issues—Question for Jury.**—While the question of construction is for the court, the location of a boundary line fixed in defendant's deed "as surveyed" by one N., but not fixed according to the plat made by N., which was complied from different surveys, nor by any courses and distances, and as to which the evidence was conflicting, was for the jury.

[Ed. Note.—For other cases, see *Boundaries*, Cent. Dig. §§ 196-204; Dec. Dig. § 40.\* 2 Va.-W. Va. Enc. Dig. 598; 15 Va.-W. Va. Enc. Dig. 139.]

Error to Circuit Court, Culpeper County.

Ejectment by Mrs. Gertrude S. Williams against J. L. Mitchell. Judgment for plaintiff, and defendant brings error. Reversed and remanded for new trial.

*Grimsley & Miller*, of Culpeper, for plaintiff in error.

*P. L. Williams*, of Huntington, W. Va., *J. L. Jeffries*, of Norfolk, and *Waite & Perry*, of Culpeper, for defendant in error.

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CARTER et al. v. THORP.

Jan. 16, 1913.

[76 S. E. 950.]

**1. Notice (§ 14\*)—Burden of Proof.**—The burden of proving notice is on the party alleging it.

[Ed. Note.—For other cases, see *Notice*, Cent. Dig. §§ 39, 40; Dec. Dig. § 14.\* 10 Va.-W. Va. Enc. Dig. 492; 14 Va.-W. Va. Enc. Dig. 785; 15 Va.-W. Va. Enc. Dig. 744.]

**2. Notice (§ 14\*)—Sufficiency of Evidence.**—While the fact of notice may be inferred from circumstances as well as proved by direct evidence, the proof must be such as to affect the conscience of

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.